

Notice of Allowability

Application No.

09/734,329

Applicant(s)

DE CROMBRUGGHE ET AL.

Examiner

Jennifer Dunston

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication(s) filed 7/20/2006.
2. ☒ The allowed claim(s) is/are 1, 19-30 and 48-55.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on 8/7/2006, Steven Highlander requested an extension of time for 2 MONTH(S) and authorized the Director to charge Deposit Account No. 50-1212/UTXC:666US/SLH the required fee for this extension and authorized the following examiner's amendment. The first month of the extension of time is required to maintain pendency of the application from the end of the three-month statutory period (1/19/2006) to the filing of the notice of appeal (1/20/2006). The second month extension of time is to maintain pendency from the filing of the after final amendment on 7/20/2006 to the approval of the examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

The specification has been amended as follows:

At page 17, beginning on line 9, the paragraph has been replaced with the following:

FIG. 10. Comparison of amino acid sequences of human Osterix (SEQ ID NO: 23) and mouse Osterix (SEQ ID NO: 2).

The claims have been amended as follows:

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1. (currently amended) ~~[[A]]~~ An isolated DNA segment comprising a protein coding region encoding an Osterix polypeptide, wherein said polypeptide comprises a transactivation domain, a zinc finger domain and a proline rich domain, wherein the Osterix polypeptide has the sequence of SEQ ID NO:2.

22. (currently amended) ~~[[A]]~~ An isolated recombinant host cell comprising ~~[[a]]~~ the DNA segment of claim 1.

30. (currently amended) ~~[[The]]~~ An isolated recombinant host cell ~~of claim 22, wherein the DNA segment is introduced into the cell by a recombinant vector comprising~~ ~~[[a]]~~ the DNA segment ~~encoding an Osterix polypeptide positioned under the control of a promoter of claim 21.~~

48. (currently amended) An isolated expression cassette comprising a polynucleotide encoding a polypeptide having the sequence of SEQ ID NO:2, wherein said polynucleotide is under the control of a promoter operably in eukaryotic cells.

55. (currently amended) ~~[[A]]~~ An isolated cell comprising an expression cassette comprising a polynucleotide encoding a polypeptide having the sequence of SEQ ID NO:2, wherein said polynucleotide is under the control of a promoter operable in eukaryotic cells, said promoter being heterologous to said polynucleotide.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Dunston whose telephone number is 571-272-2916. The examiner can normally be reached on M-F, 9 am to 5 pm.

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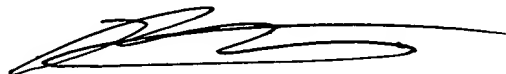
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on 571-272-0781. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jennifer Dunston, Ph.D.
Examiner
Art Unit 1636

jad

CELINE QIAN, PH.D.
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'C. Qian', written over a horizontal line.